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9

10 UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA, ) SA CR No. 06-247-DOC  
14 )  
Plaintiff, ) PLEA AGREEMENT FOR DEFENDANT  
15 ) JUAN VERDIN  
v. )  
16 )  
JUAN VERDIN, )  
17 aka "Weasel," )  
18 Defendant. )  
\_\_\_\_\_ )

19  
20 1. This constitutes the plea agreement between JUAN VERDIN  
21 ("defendant") and the United States Attorney's Office for the  
22 Central District of California ("the USAO") in the above-  
23 captioned case. This agreement is limited to the USAO and cannot  
24 bind any other federal, state or local prosecuting,  
25 administrative or regulatory authorities.

26 PLEA

27 2. Defendant agrees to plead guilty to count one of the  
28 indictment in United States v. Juan Verdin, SA CR No. 06-247-DOC.

NATURE OF THE OFFENSE

3. In order for defendant to be guilty of count one, which charges a violation of Title 21, United States Code, Sections 841(a)(1) and 846, the following must be true: (1) Beginning on or about a date unknown, but since at least January 2006, and continuing to on or about November 2, 2006, there was an agreement between two or more persons to commit the crime of possession with intent to distribute and distribute cocaine base; and (2) the defendant became a member of the conspiracy knowing of its object to possess with intent to distribute and distribute cocaine base and intending to help accomplish that object.

The crime of possession with intent to distribute is committed when (1) the defendant knowingly possesses cocaine base; and (2) the defendant possesses cocaine base with the intent to deliver it to another person.

Defendant admits that defendant is, in fact, guilty of this offense as described in count one of the indictment.

Moreover, in order for defendant to be subject to the statutory maximum and statutory minimum sentence set forth below, the government must prove beyond a reasonable doubt that defendant conspired to distribute at least 50 grams of a mixture or substance containing a detectable amount of cocaine base. Defendant admits that defendant, in fact, conspired to distribute at least 50 grams of a mixture or substance containing a detectable amount of cocaine base as described in count one of the indictment.

PENALTIES

4. The statutory maximum sentence that the Court can impose for a violation of Title 21, United States Code, Sections 841(a)(1) and 846 is: life imprisonment; a 5-year period of supervised release; a fine of \$4,000,000; and a mandatory special assessment of \$100.00. The statutory mandatory minimum sentence that the Court must impose for a violation of Title 21, United States Code, Sections 846 and 841(a)(1), is 10 years imprisonment.

5. Supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

6. Defendant also understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury.

7. Under 21 U.S.C. § 862a, defendant will not be eligible for assistance under state programs funded under the Social Security Act or Federal Food Stamp Act and will not be eligible for federal food stamp program benefits; furthermore, any such benefits or assistance received by defendant's family members will be reduced to reflect defendant's ineligibility.

8. Defendant further understands that the conviction in this case may subject defendant to various collateral consequences, including but not limited to deportation, revocation of probation, parole, or supervised release in another case, and suspension or revocation of a professional license. Defendant understands that unanticipated collateral consequences will not serve as grounds to withdraw defendant's guilty plea.

FACTUAL BASIS

9. Defendant and the USAO agree and stipulate to the statement of facts provided below. This statement of facts is sufficient to support a plea of guilty to the charge described in this agreement and to establish the sentencing guideline factors set forth in paragraph 13 below. It is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to either party that relate to that conduct.

From as early as January 2006 to November 2, 2006, defendant conspired with co-defendants Adrian Nava, aka "Drifter," Jesus Vasquez, Sr., aka "Chuy," Maria Lagunas Calderon, aka "Dona Mari," and others to distribute and possess with intent to distribute cocaine base in the Townsend Street gang area of Santa Ana, California. Specifically, the Townsend Street gang has an area they consider their neighborhood or "turf" which is located in the Southcoast District of the City of Santa Ana, California. This area/turf is bordered by Willits Street on the north, Center Street on the west, McFadden Street to the south and Faitt Street to the east. Defendant admits that he was a Townsend Street member and a supervisor/ manager of the gang.

Defendant admits that the conspiracy generally worked as follows: defendant and Nava would obtain cocaine base from other co-conspirators, including Vasquez and Calderon. Defendant and Nava would then distribute or arrange to distribute the cocaine base to other Townsend Street members. These other Townsend Street members would sell the cocaine base in the Townsend Street territory and deliver the proceeds of the cocaine base sales to defendant, Nava, and others.

1 In facilitating the cocaine base sales, defendant admits  
2 that he had telephone conversations with Nava, Vasquez and  
3 others, in which he discussed and supervised the sales of  
4 cocaine base. Below are examples of some of the telephone  
calls defendant engaged in as part of his conspiracy to  
distribute and possess with intent to distribute cocaine  
base.

5 Defendant admits that on August 15, 2006, defendant had a  
6 telephone conversation with a co-conspirator in which they  
7 discussed the sale and distribution of two sixteenths of an  
8 ounce (approximately 3.54 grams) of cocaine base.

9 Defendant admits that on August 22, 2006, defendant had a  
10 telephone conversation with a co-conspirator in which they  
11 discussed the sale and distribution of one sixteenth of an  
12 ounce (approximately 1.77 grams) of cocaine base.

13 Defendant admits that on September 3, 2006, defendant had a  
14 telephone conversation with a co-conspirator in which they  
15 discussed the sale and distribution of two sixteenths of an  
16 ounce (approximately 3.54 grams) of cocaine base.

17 Defendant admits that on September 3, 2006, defendant had an  
18 additional telephone conversation with a co-conspirator in  
19 which they discussed the sale and distribution of two  
20 sixteenths of an ounce (approximately 3.54 grams) of cocaine  
21 base.

22 Defendant admits that on September 6, 2006, defendant had a  
23 telephone conversation with a co-conspirator in which they  
24 discussed the sale and distribution of three sixteenths of  
25 an ounce (approximately 5.31 grams) of cocaine base.

26 Defendant admits that on September 7, 2006, defendant had a  
27 telephone conversation with a co-conspirator in which they  
28 discussed the sale and distribution of one sixteenth of an  
ounce (approximately 1.77 grams) of cocaine base.

Defendant admits that on September 7, 2006, defendant had an  
additional telephone conversation with a co-conspirator in  
which they discussed the sale and distribution of one  
sixteenth of an ounce (approximately 1.77 grams) of cocaine  
base.

Defendant admits that on September 21, 2006, defendant had a  
telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of two sixteenths of an  
ounce (approximately 3.54 grams) of cocaine base.

Defendant admits that on September 30, 2006, defendant had a  
telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of one sixteenth of an  
ounce (approximately 1.77 grams) of cocaine base.

1 Defendant admits that on October 6, 2006, defendant had a  
2 telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of three sixteenths of  
an ounce (approximately 5.31 grams) of cocaine base.

3  
4 Defendant admits that on October 7, 2006, defendant had a  
telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of one sixteenth of an  
ounce (approximately 1.77 grams) of cocaine base.

6 Defendant admits that on October 8, 2006, defendant had a  
7 telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of one sixteenth of an  
ounce (approximately 1.77 grams) of cocaine base.

8  
9 Defendant admits that on October 10, 2006, defendant had a  
telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of three sixteenths of  
10 an ounce (approximately 5.31 grams) of cocaine base.

11 Defendant admits that on October 20, 2006, defendant had a  
12 telephone conversation with a co-conspirator in which they  
discussed the sale and distribution of six sixteenths of an  
ounce (approximately 10.62 grams) of cocaine base.

13  
14 Defendant admits that during his participation in the  
conspiracy, he conspired to distribute and possess with  
intent to distribute at least 50 grams of cocaine base, but  
15 less than 150 grams of cocaine base.

16 WAIVER OF CONSTITUTIONAL RIGHTS

17 10. By pleading guilty, defendant gives up the following  
18 rights:

- 19 a) The right to persist in a plea of not guilty.  
20 b) The right to a speedy and public trial by jury.  
21 c) The right to the assistance of legal counsel at  
22 trial, including the right to have the Court appoint counsel for  
23 defendant for the purpose of representation at trial. (In this  
24 regard, defendant understands that, despite his plea of guilty,  
25 he retains the right to be represented by counsel -- and, if  
26 necessary, to have the court appoint counsel if defendant cannot  
27 afford counsel -- at every other stage of the proceeding.)  
28

1 d) The right to be presumed innocent and to have the  
2 burden of proof placed on the government to prove defendant  
3 guilty beyond a reasonable doubt.

4 e) The right to confront and cross-examine witnesses  
5 against defendant.

6 f) The right, if defendant wished, to testify on  
7 defendant's own behalf and present evidence in opposition to the  
8 charges, including the right to call witnesses and to subpoena  
9 those witnesses to testify.

10 g) The right not to be compelled to testify, and, if  
11 defendant chose not to testify or present evidence, to have that  
12 choice not be used against defendant.

13 By pleading guilty, defendant also gives up any and all  
14 rights to pursue any affirmative defenses, Fourth Amendment or  
15 Fifth Amendment claims, and other pretrial motions that have been  
16 filed or could be filed.

17 WAIVER OF DNA TESTING

18 11. Defendant has been advised that the government has in  
19 its possession the following items of physical evidence that  
20 could potentially be subjected to DNA testing: cocaine base and  
21 packaging, letters, miscellaneous papers and documents, money and  
22 .380 caliber ammunition all seized from 806 S. Townsend Street,  
23 Apartment #4, Santa Ana, California on November 2, 2006.

24 Defendant understands that the government does not intend to  
25 conduct DNA testing of any of these items. Defendant understands  
26 that, before entering a guilty plea pursuant to this agreement,  
27 defendant could request DNA testing of evidence in this case.

28 Defendant further understands that, with respect to the offense

1 to which defendant is pleading guilty pursuant to this agreement,  
2 defendant would have the right to request DNA testing of evidence  
3 after conviction under the conditions specified in 18 U.S.C. §  
4 3600. Knowing and understanding defendant's right to request DNA  
5 testing, defendant voluntarily gives up that right with respect  
6 to both the specific items listed above and any other items of  
7 evidence there may be in this case that might be amenable to DNA  
8 testing. Defendant understands and acknowledges that by giving  
9 up this right, defendant is giving up any ability to request DNA  
10 testing of evidence in this case in the current proceeding, in  
11 any proceeding after conviction under 18 U.S.C. § 3600, and in  
12 any other proceeding of any type. Defendant further understands  
13 and acknowledges that by giving up this right, defendant will  
14 never have another opportunity to have the evidence in this case,  
15 whether or not listed above, submitted for DNA testing, or to  
16 employ the results of DNA testing to support a claim that  
17 defendant is innocent of the offense to which defendant is  
18 pleading guilty.

19 SENTENCING FACTORS

20 12. Defendant understands that the Court is required to  
21 consider the factors set forth in 18 U.S.C. § 3553(a)(1)-(7),  
22 including the kinds of sentence and sentencing range established  
23 under the United States Sentencing Guidelines ("U.S.S.G." or  
24 "Sentencing Guidelines"), in determining defendant's sentence.  
25 Defendant further understands that the Sentencing Guidelines are  
26 advisory only, and that after considering the Sentencing  
27 Guidelines and the other § 3553(a) factors, the Court may be free  
28 to exercise its discretion to impose any reasonable sentence up



1 to the maximum set by statute for the crime of conviction.

2 13. Defendant and the USAO agree and stipulate to the  
3 following applicable Sentencing Guidelines factors:

4 Base Offense Level : 32 [U.S.S.G. § 2D1.1(c)(4)]

5 Specific Offense  
6 Characteristics  
(specify) : +3 [U.S.S.G. § 3B1.1(b)]

7 Adjustments  
(specify) : -2 Booker Variance

8 : -3 [U.S.S.G. § 3E1.1]  
9

10 The calculations are made pursuant to the November 1, 2006  
11 Sentencing Guidelines. If the court determines that the November  
12 1, 2007 Sentencing Guidelines apply retroactively, specifically  
13 the amendments lowering the penalties for cocaine base offenses,  
14 then the parties agree that the 2 level Booker Variance departure  
15 as indicated above is not applicable. Defendant and the USAO  
16 agree that no additional specific offense characteristics,  
17 adjustments, and departures under the Sentencing Guidelines are  
18 appropriate. Defendant also understands that defendant's base  
19 offense level could be increased if defendant is a career  
20 offender under U.S.S.G. §§ 4B1.1 and 4B1.2. In the event that  
21 defendant's offense level is so altered, the parties are not  
22 bound by the base offense level stipulated to above.

23 14. There is no agreement as to defendant's criminal  
24 history or criminal history category.

25 15. Defendant, pursuant to the factors set forth in 18  
26 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7), further  
27 reserve the right to argue for a sentence outside the sentencing  
28 range established by the Sentencing Guidelines.

1        16. The stipulations in this agreement do not bind either  
2 the United States Probation Office or the Court. Both defendant  
3 and the USAO are free to: (a) supplement the facts by supplying  
4 relevant information to the United States Probation Office and  
5 the Court, (b) correct any and all factual misstatements relating  
6 to the calculation of the sentence, and (c) argue on appeal and  
7 collateral review that the Court's Sentencing Guidelines  
8 calculations are not error, although each party agrees to  
9 maintain its view that the calculations in paragraph 13 are  
10 consistent with the facts of this case.

11                    DEFENDANT'S OBLIGATIONS

12        17. Defendant agrees that he will:

13                a) Plead guilty as set forth in this agreement.

14                b) Not knowingly and willfully fail to abide by all  
15 sentencing stipulations contained in this agreement.

16                c) Not knowingly and willfully fail to: (i) appear for  
17 all court appearances, (ii) surrender as ordered for service of  
18 sentence, (iii) obey all conditions of any bond, and (iv) obey  
19 any other ongoing court order in this matter.

20                d) Not commit any crime; however, offenses which would  
21 be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are  
22 not within the scope of this agreement.

23                e) Not knowingly and willfully fail to be truthful at  
24 all times with Pretrial Services, the U.S. Probation Office, and  
25 the Court.

26                f) Pay the applicable special assessment at or before  
27 the time of sentencing unless defendant lacks the ability to pay.

THE USAO'S OBLIGATIONS

18. If defendant complies fully with all defendant's obligations under this agreement, the USAO agrees:

a) To abide by all sentencing stipulations contained in this agreement.

b) At the time of sentencing to move to dismiss the remaining counts of the indictment as against defendant. Defendant agrees, however, that at the time of sentencing the Court may consider the dismissed counts in determining the applicable Sentencing Guidelines range, where the sentence should fall within that range, the propriety and extent of any departure from that range.

c) Except for criminal tax violations (including conspiracy to commit such violations chargeable under 18 U.S.C. § 371), not to further prosecute defendant for violations of 8 U.S.C. § 1326 arising out of the defendant, who is an illegal alien, meaning not a natural-born or naturalized citizen, voluntarily reentering the United States after lawful deportation without the permission of the Attorney General or his designated successor, the Secretary of the Department of Homeland Security, or any authorized representative of either the Attorney General or that Department. Defendant understands that the USAO is free to prosecute defendant for any other unlawful past conduct or any unlawful conduct that occurs after the date of this agreement. Defendant agrees that at the time of sentencing the Court may consider the uncharged conduct in determining the applicable Sentencing Guidelines range, where the sentence should fall within that range, the propriety and extent of any departure from

1 that range, and the determination of the sentence to be imposed  
2 after consideration of the sentencing guidelines and all other  
3 relevant factors.

4 d) At the time of sentencing, provided that defendant  
5 demonstrates an acceptance of responsibility for the offense up  
6 to and including the time of sentencing, to recommend a two-level  
7 reduction in the applicable sentencing guideline offense level,  
8 pursuant to U.S.S.G. § 3E1.1, and to recommend and, if necessary,  
9 move for an additional one-level reduction if available under  
10 that section.

11 e) To recommend that defendant be sentenced to a term  
12 of imprisonment at the low end of the applicable Sentencing  
13 Guidelines imprisonment range provided that the total offense  
14 level as calculated by the Court is 30 or higher and provided  
15 that the Court does not depart downward in offense level or  
16 criminal history category. For purposes of this agreement, the  
17 low end of the Sentencing Guidelines imprisonment range is that  
18 defined by the Sentencing Table in U.S.S.G. Chapter 5, Part A.

19 BREACH OF AGREEMENT

20 19. If defendant, at any time after the execution of this  
21 agreement, knowingly violates or fails to perform any of  
22 defendant's agreements or obligations under this agreement ("a  
23 breach"), the USAO may declare this agreement breached. If the  
24 USAO declares this agreement breached at any time following its  
25 execution, and the Court finds such a breach to have occurred,  
26 then: (a) if defendant has previously entered a guilty plea,  
27 defendant will not be able to withdraw the guilty plea, and (b)  
28 the USAO will be relieved of all of its obligations under this

1 agreement.

2 20. Following the Court's finding of a knowing and willful  
3 breach of this agreement by defendant, should the USAO elect to  
4 pursue any charge that was either dismissed or not filed as a  
5 result of this agreement, then:

6 a) Defendant agrees that any applicable statute of  
7 limitations is tolled between the date of defendant's signing of  
8 this agreement and the commencement of any such prosecution or  
9 action.

10 b) Defendant gives up all defenses based on the statute  
11 of limitations, any claim of pre-indictment delay, or any speedy  
12 trial claim with respect to any such prosecution, except to the  
13 extent that such defenses existed as of the date of defendant's  
14 signing this agreement.

15 c) Defendant agrees that: (i) any statements made by  
16 defendant, under oath, at the guilty plea hearing (if such a  
17 hearing occurred prior to the breach); (ii) the stipulated  
18 factual basis statement in this agreement; and (iii) any evidence  
19 derived from such statements, are admissible against defendant in  
20 any such prosecution of defendant, and defendant shall assert no  
21 claim under the United States Constitution, any statute, Rule 410  
22 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules  
23 of Criminal Procedure, or any other federal rule, that the  
24 statements or any evidence derived from any statements should be  
25 suppressed or are inadmissible.

26 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

27 21. Defendant gives up the right to appeal any sentence  
28 imposed by the Court, and the manner in which the sentence is

1 determined, provided that (a) the sentence is within the  
2 statutory maximum specified above and is constitutional, and (b)  
3 the Court imposes a sentence within or below the range  
4 corresponding to a total offense level of 30, and the applicable  
5 criminal history category as determined by the Court.

6 Notwithstanding the foregoing, defendant retains any ability  
7 defendant has to appeal the Court's determination of defendant's  
8 criminal history category and the conditions of supervised  
9 release imposed by the Court, with the exception of the  
10 following: conditions set forth in General Orders 318, 01-05,  
11 and/or 05-02 of this Court; the drug testing conditions mandated  
12 by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug  
13 use conditions authorized by 18 U.S.C. § 3563(b)(7).

14 22. The USAO gives up its right to appeal the sentence,  
15 provided that (a) the sentence is within the statutory minimum  
16 and maximum specified above and is constitutional, and (b) the  
17 Court imposes a sentence within or above the range corresponding  
18 to a total offense level of 30, and the applicable criminal  
19 history category as determined by the Court.

20 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

21 23. Defendant agrees that if any count of conviction is  
22 vacated, reversed, or set aside, the USAO may: (a) ask the Court  
23 to resentence defendant on any remaining counts of conviction,  
24 with both the USAO and defendant being released from any  
25 stipulations regarding sentencing contained in this agreement,  
26 (b) ask the Court to void the entire plea agreement and vacate  
27 defendant's guilty plea on any remaining counts of conviction,  
28 with both the USAO and defendant being released from all of their

1 obligations under this agreement, or (c) leave defendant's  
2 remaining conviction, sentence, and plea agreement intact.  
3 Defendant agrees that the choice among these three options rests  
4 in the exclusive discretion of the USAO.

5 COURT NOT A PARTY

6 24. The Court is not a party to this agreement and need not  
7 accept any of the USAO's sentencing recommendations or the  
8 parties' stipulations. Even if the Court ignores any sentencing  
9 recommendation, finds facts or reaches conclusions different from  
10 any stipulation, and/or imposes any sentence up to the maximum  
11 established by statute, defendant cannot, for that reason,  
12 withdraw defendant's guilty plea, and defendant will remain bound  
13 to fulfill all defendant's obligations under this agreement. No  
14 one -- not the prosecutor, defendant's attorney, or the Court --  
15 can make a binding prediction or promise regarding the sentence  
16 defendant will receive, except that it will be within the  
17 statutory maximum.

18 NO ADDITIONAL AGREEMENTS

19 25. Except as set forth herein, there are no promises,  
20 understandings or agreements between the USAO and defendant or  
21 defendant's counsel. Nor may any additional agreement,  
22 understanding or condition be entered into unless in a writing  
23 signed by all parties or on the record in court.  
24  
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PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

26. The parties agree and stipulate that this Agreement will be considered part of the record of defendant's guilty plea hearing as if the entire Agreement had been read into the record of the proceeding.

This agreement is effective upon signature by defendant and an Assistant United States Attorney.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GEORGE S. CARDONA  
United States Attorney

  
\_\_\_\_\_  
TERRI K. FLYNN  
Assistant United States Attorney

9/9/07  
Date

I have read this agreement and carefully discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises or inducements have been given to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

  
\_\_\_\_\_  
JUAN VERDIN  
Defendant

9/5/07  
Date



1 I am JUAN VERDIN's attorney. I have carefully discussed  
2 every part of this agreement with my client. Further, I have  
3 fully advised my client of his rights, of possible defenses, of  
4 the sentencing factors set forth in 18 U.S.C. § 3553(a), of the  
5 relevant Sentencing Guidelines provisions, and of the  
6 consequences of entering into this agreement. To my knowledge,  
7 my client's decision to enter into this agreement is an informed  
8 and voluntary one.

9  
10 Kelley Lane Munoz  
11 KELLEY LANE MUNOZ  
12 Counsel for Defendant  
13 JUAN VERDIN  
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9-5-07  
Date